

BEFORE THE  
BOARD OF CHIROPRACTIC EXAMINERS  
STATE OF CALIFORNIA

In the Matter of the Accusation  
Against:

STEVEN P. THOMPSON  
909 E. Alisal Street  
Salinas, California 93905

License No. DC-21143

Respondent.

Case No. N98-60

OAH No. N 1999030367

**PROPOSED DECISION**

This matter was heard before Christopher M. Harnett, Administrative Law Judge, Office of Administrative Hearings, in two sessions on September 30, 1999 and December 10, 1999 in Oakland, California. The reason the hearing was not completed on September 30, 1999 was that Respondent's counsel renewed a previous request of continuance on the representation that he had recently been retained and needed time to prepare his defense. Specifically, Respondent's counsel represented he needed time to subpoena otherwise unavailable records in the hands of the Monterey County District Attorney for use in the hearing, which included Respondent's medical charts and business records which had been seized with a search warrant. Over the objection of Complainant, a continuance was granted to give Respondent's counsel a reasonable opportunity to gather evidence before presenting his defense during a second session of hearing.

Complainant presented its case in chief on September 30, 1999, and Respondent presented his case in chief on December 10, 1999. Following the December 10, 1999 session, the record remained open for Complainant to submit supplemental evidence in support of its allegations of entitlement to Costs of the Investigation and Prosecution, and for Respondent to provide a response and objections to such supplemental evidence. Complainant's Certification of Costs of Investigation and Prosecution, together with its Amended Declaration of Costs was received on December 21, 1999, and marked as Exhibit 7. Respondent's Objection to Amended Declaration of Costs was received on January 6, 2000, and marked as Exhibit I. The record was then closed and the matter was submitted for decision.

Complainant was represented by Maretta D. Ward, Deputy Attorney General, Department of Justice.

Respondent appeared in person and was represented by George C. Kasolas, whose address is Pruneyard Towers 1, 1901 South Bascom Avenue, Suite 1220, Campbell, California 95008-2212.

## FACTUAL FINDINGS

### Parties and Jurisdiction:

1. Elizabeth Ware, Executive Officer of the California Board of Chiropractic Examiners (the Board), made the Accusation in her official capacity, and not otherwise.
2. At all relevant times, Respondent was, and currently is licensed by the Board under Chiropractic License No. DC 21143, issued on January 1, 1991.
3. All jurisdictional requirements for the accusation have been met, and jurisdiction for this proceeding does exist.

### Criminal Convictions and Underlying Circumstances:

4. On August 26, 1997, Respondent was convicted by the Monterey County Superior Court of seven counts of misdemeanor violations of California Insurance Code section 1871.4(a)(2) (insurance fraud), which makes it unlawful to “present or cause to be presented any knowingly false or fraudulent written or oral material statement in support of,...any claim for compensation for the purpose of obtaining...any compensation, as defined in Section 3207 of the Labor Code.”
5. The factual basis for the convictions of seven counts of misdemeanor violations of California Insurance Code section 1871.4(a)(2) is that Monterey Mushrooms is an employer that is self-insured for workers’ compensation, and that Respondent had issued industrial injury patient care billings to Monterey Mushrooms for seven chiropractic care appointments with patient Jesus Ontiveros, knowing that such individual had not been injured in the course and scope of employment and knowing that Monterey Mushrooms should not have been legally obligated to pay such billings.
6. The circumstances leading up to the criminal convictions began when Respondent had become the subject of an undercover sting investigation by the Monterey County District Attorney whose investigator, Dennis Cates, recruited Jesus Ontiveros to operate as an undercover operative, and also recruited local employer Monterey Mushrooms to pretend to have been the employer of Mr. Ontiveros.

7. The undercover sting investigation began on December 16, 1996 when the Risk Manager of Monterey Mushrooms, Mr. John Hacker, signed an Authorization for Medical Services, authorizing the provision of necessary medical services by Respondent to Mr. Ontiveros. The authorization provided biographical information about Mr. Ontiveros, as well as information identifying him as a Transport Worker within the Harvesting Department of Monterey Mushrooms. The authorization described an industrial injury as having occurred on August 28, 1996, as follows: "Worker says that he twisted his upper back while moving, loading, unloading mushrooms." This information was not true, and had been invented by Mr. Cates for the purpose of the undercover investigation. With this in mind, Mr. Ontiveros had not been an employee of Monterey Mushrooms who was injured in the course of employment, and had himself been the subject of a previous criminal investigation, before being recruited as an undercover operative for the investigation of Respondent as well as other investigations.

8. On December 17, 1996, Mr. Ontiveros presented himself to Respondent for chiropractic care, at which time he presented the Authorization for Medical Services and gave a history of suffering from generalized back pain, mostly in the upper back and neck. A patient history questionnaire was completed and signed by Mr. Ontiveros, within which he represented that his complaints arose out of his employment. According to a Doctor's First Report of Occupational Injury prepared by Respondent, Mr. Ontiveros had represented that his complaints had first occurred while pushing a basket weighing 300-400 pounds. Respondent's initial examination included seven x-rays, which he testified he interpreted as showing pathology consistent with Mr. Ontiveros' complaints. With this in mind, he testified he interpreted the anterior-posterior (AP) film of the thoracic spine, as showing a "drift to the left" or "S shaped curve," the lateral film of the cervical spine as showing straightening of the normal cervical lordosis, and the lateral film of the lumbar spine as showing diffuse degenerative changes consistent with aging. Respondent introduced the entire chiropractic chart into evidence, which was characteristic of a typical chiropractic chart.

9. At the time of the December 17, 1996 visit, Respondent provided Mr. Ontiveros with a Disability Request form, within which he set forth a diagnosis of soft tissue injury conditions, and certified him as partially temporarily disabled from employment for two weeks. Respondent then saw Mr. Ontiveros on 7-8 more occasions over the next two weeks, during which the patient did not ever represent that his complaints were non-industrial.

10. At the time of his scheduled December 30, 1996 chiropractic appointment, Mr. Ontiveros disclosed to Respondent that he had not injured himself in the course of his employment, and that his injury had been sustained while at home.

11. Monterey District Attorney Investigator Dennis Cates testified he personally arranged for each transaction entered into by Mr. Ontiveros with regard to the under-

cover investigation of Respondent, and that he had personally monitored each such transaction through audio surveillance. Mr. Cates testified he had personally wired Mr. Ontiveros with a microphone designed to transmit the December 30, 1996 conversation with Respondent to a remote location outside Respondent's office from which he monitored the conversation. Mr. Cates testified that, although he did not have Respondent within a line of sight, he was familiar with Respondent's voice,<sup>1</sup> and that he personally heard what Respondent said in response to Mr. Ontiveros' disclosure that his injuries were not industrial. Mr. Cates testified that such response was, in substance, "If you don't tell, then I won't tell."

12. Despite receiving Mr. Ontiveros' disclosure that his injury was not industrial, Respondent continued to treat the handling of his billings as though the injury was industrial. Specifically, on January 2, 1997 Respondent prepared a second Disability Request form, within which he renewed the pronouncement of Mr. Ontiveros as partially disabled based on industrial injury and extended the industrial disability period until January 15, 1997. Respondent then continued to treat Mr. Ontiveros with chiropractic manipulations on at least seven more occasions through January 15, 1997. Following each treatment session between December 30, 1996 and January 15, 1997, Respondent's office continued to submit billings to Monterey Mushrooms, for payment of services in accordance with the original authorization, as though necessitated by an industrial injury. At least 50% of Respondent's chiropractic practice involved industrial injury cases and he knew that, under the circumstances, Mr. Ontiveros should have been personally responsible, and that Monterey Mushrooms should not have been responsible, for the chiropractic treatment he provided.

13. Respondent's chiropractic chart reveals that, on January 15, 1997, he prepared a third Disability Request form renewing the pronouncement of Mr. Ontiveros as partially disabled on an industrial injury basis, and extended the industrial disability period to January 31, 1997. On that same date Respondent prepared a Workers Compensation Attending Physician's Report setting forth a continuing plan of chiropractic treatment on an industrial injury basis and, in the meantime, provided Mr. Ontiveros with a calendar of appointments into February 1997.

14. Respondent testified that the reason he did not take any action to cease issuing billings to Monterey Mushrooms after the December 30, 1996 disclosure was that he felt sorry for Mr. Ontiveros, who had stated he had a family to provide for and was suffering financial difficulties. Respondent, furthermore, testified his main concern was to return Mr. Ontiveros to work, and that his failure to take action was also prompted by what he described as "the usual patient bonding" that he experiences with patients such as Mr. Ontiveros. Elaborating further on this subject, Respondent testified

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<sup>1</sup> Mr. Cates explained that the reason he was familiar with Respondent's voice is that Respondent had previously cooperated with his office in connection with an insurance fraud investigation of a previous patient that had concluded several months before the onset of the subject investigation.

that he had concern about whether revealing the information provided by Mr. Ontiveros on December 30, 1996 would have involved disclosure of confidential patient information. Respondent admits his stated concern in this regard was wrong.

15. Pursuant to Mr. Cates' instructions, Mr. Ontiveros did not return to Respondent for any further care after January 17, 1997. On January 24, 1997, Mr. Cates visited Respondent at his office and made inquiry as to what Respondent knew about Mr. Ontiveros. During this meeting, Mr. Cates told Respondent that Mr. Ontiveros was suspected of having been involved in a workers' compensation insurance fraud scheme, and asked whether Respondent had any information that would assist in the investigation. Respondent's response to this question was to state that it appeared Mr. Ontiveros had a valid industrial injury claim, but that there was an element of suspiciousness, because the date of injury was August of 1996. Respondent provided Mr. Cates with no additional information on the subject at this meeting, and did not inform Mr. Cates of the fact that Mr. Ontiveros had disclosed his injury was not industrial. Respondent later placed a telephone call to Mr. Cates, at which time he stated he had learned, on either January 10, 1997 or January 15, 1997, that Respondent's entire claim was fraudulent, and that he had discontinued treating Mr. Ontiveros immediately upon receiving such information. This representation by Respondent had been untrue, since he had administered and billed for eight treatment sessions of Mr. Ontiveros following the December 30, 1996 conversation.

16. Respondent testified that, at the time of Mr. Cates' January 24, 1997 visit, he was very busy and that he preferred to review his billing files which were within his other office 30 miles away, before providing further information to Mr. Cates.

17. On January 28, 1997, Respondent sent a letter to Mr. Hacker of Monterey Mushrooms enclosing a personal check in the amount of \$1,497.58, reimbursing payments for services rendered to Mr. Ontiveros. This included billings for services during the first two weeks of the relationship, while he was unaware of the fact that the injuries had not been industrially caused. Respondent produced a handwritten note between members of his clerical staff instructing that no further charges be put into the billing account for Mr. Ontiveros after January 17, 1997. This note is not dated, and the date on which it was prepared was not established.

18. The convictions of seven counts of misdemeanor violations of California Insurance Code section 1871.4(a)(2) were for Respondent's submission of billings for services between December 30, 1996 and January 15, 1997, and not for billings for services rendered prior to December 30, 1996. The convictions were after a bench trial of charges in a felony information (complaint) in the Monterey Superior Court. The criminal trial was preceded by an agreement that Respondent would waive his right to a jury trial on the condition that, if found guilty, the convictions would be of misdemeanors only. Respondent had maintained his innocence in connection with the

criminal proceedings, from the date of the filing of the original complaint in the Monterey Municipal Court, February 10, 1997 through the date he was found guilty by the Monterey Superior Court, August 26, 1997.

19. The Superior Court disposition of the criminal action was suspension of imposition of sentence, and the placement of Respondent on formal probation, the terms of which included a \$5,000 fine and a requirement he complete 300 hours of community service. Respondent satisfied these conditions, and the community service was performed on behalf of the Alzheimer's Association of Monterey, for whom Respondent catalogued library videotapes.

20. Respondent openly stated on several occasions during the hearing that he admits he made a very grave mistake in continuing to treat Mr. Ontiveros on an industrial injury basis, at the expense of Monterey Mushrooms after notification the injuries were not industrially related. With this in mind, Respondent testified that, after the criminal conviction, he scheduled an appointment to speak at a meeting of the Monterey County Chiropractic Association, during which he made a presentation confessing to the membership what he had done wrong, why he was remorseful and why he would never let something like this happen again.

21. On November 2, 1999, Respondent's counsel petitioned the Monterey County Superior Court to terminate his probation early, to enter a plea of not guilty, to withdraw the convictions of guilty and to dismiss the original criminal complaint. This relief was granted on December 1, 1999, under Penal Code sections 1203.3 and 1203.4. The Court's order specifically states it does not relieve Respondent from obligations to disclose the convictions in response to any application for licensure by any state or local agency. The petition was filed and the order was obtained during the two month period Respondent had been provided, between the first and second sessions of the disciplinary hearing, for the purpose of obtaining witnesses and documents in his defense.

22. Respondent has not suffered any other criminal convictions, and had, on a previous occasion, cooperated with Mr. Cates in providing favorable testimony for the District Attorney in connection with an unrelated insurance fraud investigation of one of his patients.

23. Evidence was introduced by Complainant that in representing himself in the scheduling phases of these proceedings, Respondent had not been altogether candid about the reason for his unavailability at the time of a scheduled hearing date.

#### Cost Recovery Issues:

24. Pursuant to Business and Professions Code section 125.3, Complainant has requested reimbursement of its reasonable costs of investigation and prosecution. In support, Complainant had at the September 30, 1999 session of the hearing submitted a

document entitled Declaration of Costs by Deputy Attorney General Ward, dated September 27, 1999. Following the December 6, 1999 session of the hearing Complainant submitted two additional documents, the first of which is entitled Certification of Costs of Investigation and Prosecution, dated December 10, 1999 and the second of which is entitled Amended Declaration of Costs by Deputy Attorney General Ward, dated December 20, 1999.

25. The original Declaration of Costs, dated September 27, 1999 represented that the Attorney General's Office has billed or will bill the Board for the \$3,900 of fees as necessary costs of prosecution of this accusation. This declaration represents that the total amount of time spent by Ms. Ward in the prosecution of this matter included: Year 1998 – 20 hours at \$100 per hour = \$2,000; and Year 1999 – 19 hours at \$100 per hour = \$1,900. This declaration provides a breakdown of Ms. Ward's efforts as follows:

20.00 hours – Analysis of Investigative File and Preparation of Pleadings; including reviewing, organizing, examining authenticity, and researching legal issues;

5.00 hours – Discovery; including reviewing and assessing discovery from Respondent and researching legal issues;

14.00 hours – Hearing Preparation and Settlement; including communicating with investigator, client, Respondent, opposing counsel, and the Office of Administrative Hearings.

This document cautions that the charges set forth therein do not include final preparation before the scheduled September 30, 1999 hearing.

26. The Amended Declaration of Costs, signed by Deputy Attorney General Maretta D. Ward, counsel for the Board in these proceedings, represents that the Attorney General's Office has billed or will bill the Board for the \$9,450 of fees described in the Certification of Costs. This document was signed on December 10, 1999. This declaration asserts that the time spent by Ms. Ward in handling the prosecution of this matter was increased substantially by the fact the hearing was conducted on two different days, in order to accommodate Respondent's counsel's preparation of his defense, and by dilatory tactics on the part of Respondent's counsel. This declaration provides a breakdown of Ms. Ward's efforts as follows:

32.25 hours – Analysis of Investigative File and Preparation of Pleadings; including reviewing, organizing, examining authenticity, researching legal issues and researching Respondent's compliance with terms of his criminal conviction.

23.00 hours – Discovery; including reviewing and assessing discovery from Respondent, researching legal issues, and reviewing and assessing documents from criminal convictions.

39.25 hours – Hearing Preparation and Settlement; including communicating with investigator, client, Respondent, opposing counsel, and the Office of Administrative Hearings, and researching legal basis of Respondent's claims of unavailability for scheduled hearings.

This document cautions that the charges set forth therein do not include any time spent after November 30, 1999, and specifically do not include approximately 20 hours of time spent in addressing Respondent's subpoena of the records of the Monterey District Attorney, without notification to the Attorney General.

27. The Certification of Costs is signed by Catherine A. Hayes, the Enforcement Program Manager of the Board who represents that, in the absence of the Executive Director, she approves payment of costs incurred by the Board in the enforcement of laws and regulations under its jurisdiction. This document represents the Board incurred the following fees in connection with the prosecution of this accusation: Fiscal Year 1998/1999 – 39.25 hours, at \$100 per hour = \$3,925; and Fiscal Year 1999/2000 – 55.25 hours at \$100 per hour = \$5,525. Total costs \$9,450. This document provides no information at all about the nature of tasks performed.

28. Respondent's Objection to Amended Declaration of Costs contends that the Attorney General's Office was itself dilatory in causing an initial continuance of the hearing, and attacks the reasonableness of Complainant's Amended Declaration of Costs on several grounds. One ground of attack is that the Amended Declaration seeks fees for 55.25 additional hours, or costs of \$5,525, for work performed after Complainant had presented its case in chief and had rested its case on September 30, 1999. With this in mind, the Objection questions how the Deputy Attorney General could have spent the majority of her overall prosecution time in pre-hearing preparation after resting her case in chief. The Objection correctly points out the fact that the Declaration does not specify the dates on which specific tasks requiring specific amounts of time were performed. The Objection, furthermore, requests that any award of costs be made only after a hearing during which Complainant should be required to authenticate its supporting documents under the California Evidence Code.

#### **RULING ON RESPONDENT'S OBJECTION TO ADMISSIBILITY OF COMPLAINANT'S AMENDED DECLARATION OF COSTS**

Respondent's objections to the admissibility of Complaint's Amended Declaration of Costs is deemed to be an objection to the Certification of Costs as well, and is overruled on all grounds raised. The Certification of Costs and the Amended Declaration of Costs are in accordance with the requirements of Title 1 of the California



Code of Regulations, section 1042(b)(3). The objections of respondent to the reasonableness of Complainant's Certification and Declaration of Costs are addressed within the Legal Conclusions below.

## LEGAL CONCLUSIONS

### Criminal Convictions:

1. California Business and Professions Code section 1000-10(b) provides that the Board may suspend or revoke a license to practice chiropractic or may place a licensee on probation or issue a reprimand to a licensee for violation of any of the rules and regulations adopted by the Board. The rules and regulations of the Board are set forth within Title 16 of the California Code of Regulations.

2. Cause was established, by clear and convincing evidence, to discipline Respondent pursuant to California Code of Regulations, Title 16, section 317(g), by reason of Findings 4 through 18, inclusive. Respondent's convictions violations of Insurance Code section 1871.4(a)(2), were of crimes substantially related to the qualifications, functions or duties of a chiropractor. Billing insurance companies and self-insured employers in connection with treatment of industrial injury patients is an integral part of the practice of chiropractic and the public has a right to expect a chiropractor will perform such task honestly.

3. Cause was established, by clear and convincing evidence, to discipline Respondent pursuant to California Code of Regulations, Title 16, section 317(h), by reason of Findings 4 through 18, inclusive. Respondent's convictions violations of Insurance Code section 1871.4(a)(2) were of crimes of moral turpitude, dishonesty and corruption.

4. California Code of Regulations, Title 16, section 317(h) provides that the Board may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline, and Respondent has presented evidence of those circumstances in his defense. The circumstances reveal that, as part of the undercover sting investigation, Respondent was initially misled as to the origin of his patient's claimed injuries. The circumstances reveal, however, that Respondent was made plainly aware on December 30, 1996 that his patient's claimed injuries were not industrial, and that he knew that Monterey Mushrooms, as an employer who was self-insured for workers compensation, should not have been responsible for paying his billings for that patient. Despite his awareness and knowledge in this regard, Respondent continued to send billings to Monterey Mushrooms for treatment of his patient on an industrial injury basis. The billings were, under such circumstances, knowingly fraudulent. In furtherance of such fraud, Respondent continued to prepare disability request forms certifying his patient as disabled on an industrial basis, and also prepared a medical report describing his patient as having been injured on an industrial basis. Copies of such

documents were within the chart introduced into evidence by Respondent. Official notice, under Government Code section 11515, is taken of the fact they are the types of records furnished to, and relied upon by, an employer that is self-insured for workers compensation, in the payment of medical billings for treatment of industrial injuries.

5. There is no credible evidence that Respondent had done or planned to do anything, prior to the January 24, 1997 visit by District Attorney's Office Investigator Dennis Cates, to cease the issuance of fraudulent billings to Monterey Mushrooms. When confronted by Mr. Cates on January 24, 1997 with the question whether he had any knowledge of fraud with regard to his patient's workers compensation claim, Respondent compounded his fraudulent conduct by failing to tell the whole truth about his knowledge on the subject.

#### Mitigation and Rehabilitation:

6. Respondent's counsel asserts the Board should consider the fact the Superior Court determined his violations of Insurance Code section 1871.4(a)(2) were mere misdemeanors, rather than felonies. This minimizes the seriousness of his offenses. Moreover, it ignores the pre-trial bargain entered into by his attorney whereby an agreement was struck that, because of his waiver of a jury trial, any findings of guilt would only be of misdemeanors. Respondent's counsel also asserts the Board should consider the fact that the Superior Court issued a December 1, 1999 order dismissing the criminal complaint. This, likewise, minimizes the seriousness of the convictions and ignores essential circumstances surrounding such order. One such circumstance this argument ignores is that the Superior Court's order specifically provides it does not relieve Respondent from disclosing the convictions in matters relating to licensure by any state or local agency. Another such circumstance this argument ignores is that the order was procured during the two month period of time Respondent's counsel had represented to the Administrative Law Judge that a continuance of the hearing on this matter was necessary for the purpose of gathering evidence in the form of witnesses and documents for the presentation of Respondent's defense.

7. Respondent testified that one of the reasons he did not take action to cease the issuance of fraudulent billings was that he was concerned about his patient's financial welfare. This does not mitigate his conduct, since he could have just as well provided treatment to the patient while deferring issuance of any billings.

8. The fact Respondent had not initially known the true facts about Mr. Ontiveros' claim at the outset of the patient relationship and that he did not learn of such facts until he had formed a patient bonding relationship is a circumstance in mitigation. The fact Respondent has not otherwise been involved in any other criminal conduct is another circumstance in mitigation. The burden of proof is on the Respondent to show evidence in mitigation, and the aggregate sum of these two circumstances is very small in comparison to the gravity of Respondent's criminal offense. It is significant that there

is no credible evidence showing that Respondent would have ceased the issuance of fraudulent billings, had he not been visited on January 24, 1997 by Mr. Cates, who Respondent knew was in the business of investigating and prosecuting insurance fraud.

9. Respondent's testimony that he had recently publicly admitted his wrongdoing to the local chiropractic association, and the evidence that he has successfully carried out the terms and conditions of his criminal probation is evidence of a start toward rehabilitation. The fact the criminal complaint has been dismissed, pursuant to an order issued under Penal Code sections 1203.3 and 1203.4, however, is of no persuasive value in these proceedings. The burden of proof is on Respondent to show rehabilitation, and the evidence offered by him on this subject, although probative, has not established that he has achieved rehabilitation, considering the extreme seriousness of the conviction of the crime of insurance fraud, a crime of dishonesty and moral turpitude. The conduct of Respondent that resulted in the criminal convictions of insurance fraud certainly undermined and compromised Respondent's personal integrity, as well as the integrity of the chiropractic profession. It is, accordingly, determined that a sustained period of rehabilitation will be necessary to allow Respondent to reset his "moral compass."

Penalty:

10. The Board's recommended penalty for a conviction of a crime involving insurance fraud is straight revocation. The Board's more lenient recommended penalty for conviction of a crime not involving insurance fraud, but still involving moral turpitude or fraudulent acts in connection with a licensee's practice, is a maximum of straight revocation and a minimum of revocation stayed with a minimum of 30 days suspension plus five years probation. In this instance, the amount of money involved in the fraudulent billings altogether was quite low. However, the convictions were for a crime that was not only committed in connection with the chiropractic practice of Respondent, but repeatedly being committed with each visit and billing and with false reports designed to perpetuate the untruthful representation that the injury had been industrial. Moreover, there is no credible evidence that Respondent would have ceased issuing fraudulent billings had he not been caught. Under the circumstances, the seriousness of the offense outweighs the evidence presented in mitigation and rehabilitation, and warrants a penalty that is in accordance with that specifically recommended by the Board rather than a lesser penalty for a crime of moral turpitude or fraudulent act not involving insurance fraud.

Costs:

11. The Declaration of Costs supports an award of reasonable costs of investigation and enforcement of disciplinary proceedings under Business and Professions Code section 125.3, Title 16 of the California Code of Regulations, section 317.5 and Title 1 of the California Code of Regulations, section 1042(b)(3). The Board is the prevailing

party, and the \$100 hourly rate for the services of the Department of Justice is reasonable, considering the ability and expertise of the Deputy Attorney General who handled the matter. Based on the original Declaration, with regard to costs prior to the September 30, 1999 session of the hearing, it is found that all of the 39 hours time described therein, at the rate of \$100 per hour, was reasonable.

12. With regard to the Amended Declaration and the Certification of Costs of Investigation and Prosecution, it is found that at least 30 hours, at the rate of \$100 per hour, of the time spent by the Department of Justice, or \$3,000, represents additional reasonable costs of investigation and prosecution. This is for work performed between the first session of the hearing and the second session of the hearing. The reasons why this time was reasonable are that cases involving insurance fraud require detailed preparation, that continuance of the hearing to accommodate Respondent's counsel substantially increased the amount of work necessary on the part of the Department of Justice, and that the subpoena issued by Respondent's to the Monterey District Attorney, between the first and second sessions of the hearing, furthermore increased the amount of necessary work by the Department of Justice. Although such additional costs were reasonably expended, Business and Professions Code section 125.3 and Title 16 of the California Code of Regulations, section 317.5 provide only for recovery of "costs up to the date of the hearing." In this instance, the first date of the hearing was September 30, 1999. There is, accordingly, no jurisdiction, as part of this disciplinary proceeding, for an award beyond the \$3,900 described in the original Declaration of Costs.

### ORDER

1. Chiropractic license No. DC 21143 issued to Steven P. Thompson is revoked, based on Findings 4 through 18, inclusive and Legal Conclusions 1 through 11, inclusive. Respondent shall relinquish his wall license and pocket renewal license to the Board or its designee within ten (10) days of the effective date of this decision. Respondent may not petition the Board for restoration of his revoked license for two (2) years from the effective date of this decision.

2. Within ninety (90) days of the effective date of this Decision, Respondent shall reimburse the Board at its Sacramento address for the reasonable costs of its investigation, enforcement and prosecution in the amount of \$3,900, based on Finding 24 and Legal Conclusion 12.

DATED: April \_\_\_\_\_, 2000

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CHRISTOPHER M. HARNETT  
Administrative Law Judge  
Office of Administrative Hearings